

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE: BAIR HUGGER FORCED AIR
WARMING PRODUCT LIABILITY
LITIGATION

MDL No.: 15-md-02666 (JNE/DTS)

This Document Relates To:

DAVID OELTJEN,

Civil Action No.: 17-cv-03062

Plaintiff,

**DECLARATION OF SAMANTHA RODRIGUEZ IN SUPPORT OF
PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS**

I, Samantha Rodriguez, declare as follows:

1. I am an attorney at Kennedy Hodges, LLP and Counsel for Plaintiff David Oeltjen in the above-captioned matter.
2. I submit this declaration in opposition to Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order No. 23 [Dkt. 1621] filed on December 6, 2018.
3. Mr. Oeltjen contacted Kennedy Hodges, LLP in July of 2015 regarding injuries that were allegedly caused by the Bair Hugger patient warming device.
4. Medical records and billing records pertaining to Mr. Oeltjen's treatment were obtained by Kennedy Hodges through its third-party medical records retrieval company. Those records indicated that a Bair Hugger device was used during his initial orthopedic surgery.

5. This case was filed on July 19, 2017 to comply with a possible statute of limitations deadline identified by counsel.
6. Plaintiff submitted a completed PFS on October 17, 2017.
7. On December 3, 2018, counsel received an email from Defendants stating that Mr. Oeltjen had passed away on December 8, 2017. Counsel was not aware of Mr. Oeltjen's passing prior to receipt of this email.
8. Counsel sent out a contact letter and placed phone calls to Mr. Oeltjen's mother, who was listed as his alternate contact in counsel's file in order to reach next of kin.
9. To date, Kennedy Hodges has not received a response to these communication attempts and therefore has been unable to establish contact with the next of kin to determine how to proceed.
10. As these efforts to locate next of kin have not been successful to date, counsel has been unable to confirm whether next of kin would want to continue the case on behalf of Mr. Oeltjen or otherwise determine whether the probate process has been completed.

Pursuant to 28 U.S.C. § 1746(2), I declare under penalty of perjury that the foregoing is true and correct.

December 13, 2018

/s/Samantha Rodriguez
Samantha Rodriguez